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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of:

Administration of the North American
Numbering Plan

CC Docket No. 92-237
Phases I and II

Comments on Notice of Proposed Rulemaking

Allnet Communication Services, Inc. (Allnet) hereby provides comments to the Commission regarding its Notice of Proposed Rulemaking, released April 4, 1994, in the above captioned proceeding. In these comments, Allnet demonstrates that non-discriminatory availability of intraLATA dial-1 is the only logical answer to the problems created by CIC code expansion. The FCC cannot allow CIC code expansion without first ordering that dial-1 access be provided in a non-discriminatory manner for all toll traffic (including intraLATA toll traffic).

Contrary to the suggestions of the NPRM, the ability of the Bell Operating Company's (BOC's) to provide a dial-1 option to end users is not an issue. The BOCs have had the technical capability to provide intraLATA presubscription since 1985, but those BOCs have withheld this equal access to hinder intraLATA competition. Various major independent telephone companies have implemented universal intraLATA dial-1 access already. The FCC's order must cover all toll traffic (including intraLATA toll) because intraLATA dial-1 access is, at its core, a numbering plan issue which the FCC has recognized as being within their plenary jurisdiction. It would be arbitrary and capricious for the FCC to allow the otherwise

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anticompetitive CIC code expansion for all calling, (including all intrastate intraLATA calling) while not first requiring that the dial-1 access dialing plan be made available to all carriers for all of their intraLATA toll traffic -- in order to offset the anticompetitive effects of the CIC code expansion.

Also in these comments, Allnet continues to urge that the FCC fully assume its role as overseer of the North American Numbering Plan (NANP). NANP involves a contentious set of issues that have proven to be generally unresolvable in a timely manner by the industry. Only the FCC can combine the due process, neutrality, and expertise required to address these matters effectively.

I Dial-1 IntraLATA Presubscription Must Be Ordered for All Traffic

Allnet is pleased that the FCC has recognized the linkage between the numbering plan proposal of Bellcore regarding expanding the length of CIC codes, and the increased discrimination that it will cause in favor of its owners, the BOCs. As will be explained, this CIC code expansion numbering plan issue goes hand-in hand with another numbering plan issue -- namely, non-discriminatory availability of dial-1 access for all toll calling. The inter-relationship of these access dialing issues is illustrated in the following chart and discussed below:

	<u>Access Dialing</u>	<u>Availability</u>
Dial-1 Access for Toll	"1+" toll number	Only to LEC for IntraLATA
Existing Prefix Dialing Access for Toll	"10XXX+1+" toll number [where XXX is 3 digit CIC code]	Available to all carriers until end of 18 month transition to mandatory expanded prefix dialing.
Expanded Prefix Dialing Access to Toll	"101XXX+1+" toll number [where XXXX is new 4 digit CIC code.]	Must be used for accessing all carriers after expansion is required.

A. The FCC Rightly Views Numbering Plan Issues As Exclusively Within its Jurisdiction

As the Commission rightly recognizes it has the power to determine if and when dialing code prefixes for accessing BOC competitors will be expanded from five to seven digits. In the NPRM, the Commission rejects the proposed Bellcore transition plan of 18 months, and that of MCI and AT&T for 10 years, and substitutes its own determination that mandatory CIC code expansion should not occur for six years. NPRM at ¶¶51-54. Such numbering plan issues are within the FCC's plenary jurisdiction. NPRM ¶8. Moreover, and very importantly, this determination will affect how both interstate and intrastate calls are dialed.

Increasing the length of the CIC codes necessarily increases the dialing access prefix that must precede the called number when an end user chooses to access a carrier other than a carrier that is presubscribed to that end user's line for the type of call being made. For example, the FCC's NPRM decision regarding the CIC code change will necessarily affect the dialing prefixes needed to be dialed for both interstate and intrastate intraLATA toll calling. Thus, the FCC has clearly determined that numbering plan issues involving the length of a dialing prefix (e.g., expanding the length from 5 digits [i.e., 10XXX, where XXX is a three digit CIC code] to seven digits [i.e., 101XXXX, where XXX is a four digit CIC code]) for both interstate and intrastate calls are matters that the FCC can decide on its own -- regardless of the cross-jurisdictional impact of such a decision. Furthermore, the Commission's decision regarding this numbering plan issue, on its own, will reduce the level of intraLATA competition for both interstate and intrastate intraLATA services

because customers will be less inclined to dial a seven digit prefix to access a non-LEC carrier than they will be inclined to dial the already burdensome five digit prefix.

B. Dial-1 Access, Like Other Numbering Plan Issues, Is Within the FCC's Jurisdiction

The effective shortening of the dialing prefix on all calls through universal availability of dial-1 access for all carriers will neutralize the increased discrimination that will be caused by the lengthening of the prefix for dialing both interstate and intrastate non-presubscribed calls -- including all intraLATA calls. Thus, the intraLATA dial-1 issue is simply the flip side of the CIC code lengthening issue. There would be no concern with CIC code expansion if no end user's were required to dial that code when attempting to route their calls to the carrier of their choice.

The NPRM correctly notes that if the dialing prefix for intraLATA calls increases in length, the discrimination that the FCC has already found to exist will become even more unreasonable.¹ NPRM at ¶¶55-58. Thus, the lengthening of the CIC codes cannot be allowed to take place until the dial-1 access advantage that some LECs have exclusively maintained for themselves for all of their traffic is first eliminated by providing non-discriminatory dial-1 access for all carriers and, in turn, allowing all end users to presubscribe to either its interLATA carrier or its local exchange carrier for toll calling.

¹The FCC has already found that the lack of the ability of an end user to access an intraLATA carrier other than their local exchange carrier constitutes discrimination among like access services. Memorandum Opinion and Order, Allnet v. US West, File No. E-89-38, 8 FCC Rcd 3017 (1993) ["US West Order"], and Allnet v. Illinois Bell, et. al., File Nos. E-91-030, et. seq., 8 FCC Rcd 030 (1993), ["Ameritech Order"] recon. denied, 9 FCC Rcd. 977 (1994), further recon. pending, filed March 25, 1994. ["the defendants' failure to provide allnet with the same dial-1 access for intraLATA, interstate services that defendants' enjoy constituted a form of discrimination in defendants' provision of 'like communications services,' within the meaning of Section 202(a)."] Ameritech Order at ¶55 and US West Order at ¶28.

C. Dial-1 "Modified 2-PIC" Capabilities Already Exist In the LEC Switches

The NPRM identifies the following three methods of allowing dial-1 intraLATA for all toll calls:

a) the "full-2 PIC" method: this method allows an end user to presubscribe to any carrier for carrying their non-prefixed (i.e, dial-1 access) intraLATA calls, thereby eliminating the need to dial the CIC code prefix on all toll calls for both interLATA and intraLATA calls.

b) the "modified 2-PIC" method: this method allows an end user to presubscribe to either their local exchange carrier or their interLATA carrier for carrying their non-prefixed intraLATA calls, thereby eliminating the need to dial the CIC code prefix on all toll calls for both interLATA and intraLATA calls.

c) the "all PIC" method: this method, which is described by the Commission as always routing intraLATA interstate toll calls to the interLATA carrier would only eliminate the need to dial the CIC code prefix on toll calls made over the interLATA carrier, but not over the local exchange carrier.

Allnet strongly supports the "modified 2-PIC" method because 1) it is a proven method,² 2) it does not require any new software,³ 3) it can be implemented

²This method has been enabled in all LEC "equal access" switches and has been used in providing interstate switched WATS access lines since 1985. The "modified 2-PIC" method is also referred to as the "class of service" method. In effect, each end user is offered a choice between two classes of service: one which routes all intraLATA calls to the end user's interLATA carrier, and the other class of service which routes all intraLATA calls to the LEC (or in the case of an independent telephone company, it may route the intraLATA calls to the Bell Operating Company if the local exchange carrier currently routes its intraLATA calls on a default basis to their local Bell Operating Company). [See, Exhibits I and II at 24 and 4-5, respectively.] The class of service method is very flexible because it allows many different local exchange carrier-defined routing options without the need for any new software. See, e.g., as demonstrated by the stipulations of Western Reserve and Cincinnati Bell, and in the tariff terms and conditions of US West [Exhibit III, herein]

³Contrary to the suggestion of the NPRM at note 96, the "modified 2-PIC" method, deployed using the class of service method would not impose additional cost on the BOCs. Furthermore, no balloting or customer education program is necessary because each competitor will attempt to be chosen as the intraLATA dial-1 provider for its local or interLATA end users, and in the process will educate those customers as to the availability of this option

immediately,⁴ and 4) it has been the method of choice for implementing intraLATA dial-1 by leading local exchange carriers such as Cincinnati Bell and Western Reserve (an Alltel local exchange carrier).⁵

The full 2-PIC method offers little advantage over the modified 2-PIC method (deployed using the class of service method). While the former provides the additional end user option of providing dial-1 intraLATA access for carriers other than the dial-1 interLATA carrier or the local exchange carrier, this option appears to be of little value. It would make sense that an end user would most likely chose to have its dial-1 intraLATA calls routed over either their existing local exchange carrier or its interLATA carrier because the end user already has a business relationship with both of these companies (the former for interLATA calling and the latter for local calling). It is also for this reason that the "all PIC" option is not appropriate, because, as the existing 1-PIC arrangement does for interLATA carriers, the all-PIC arrangement eliminates the ability to chose the local exchange carrier as the dial-1 intraLATA provider.

In summary, the Commission should proceed without delay to properly prepare the industry for expanded CIC codes and the otherwise discriminatory effect such expansion will have on LEC intraLATA toll competitors. The only logical solution to this increased discrimination is the requirement that dial-1 be an option for all intraLATA calls -- thus eliminating the need for end users to dial long extended

⁴Companies such as US West and the other Bell Operating Companies were able to activate the class of service method of providing switched WATS access lines within a matter of weeks of the FCC's adoption of an order. See, e.g., Exhibit III, herein.

⁵See, Exhibit I, and II herein, which present negotiated agreements between both Cincinnati Bell and Western Reserve, and other parties, in which both companies chose, at their option, to employ the modified 2-PIC method rather than the full 2-PIC method when they agreed to implement intraLATA dial-1 in Ohio.

101XXX codes to reach the intraLATA carrier of their choice.

II. The FCC Must Be the NANP Administrator

The FCC is the only logical choice for being the NANP administrator. The FCC already has the due process requirements of the APA, as well as the openness required of the Freedom of Information Act. The standards committees, such as the ATIS or NECA, are ill equipped to deal with contentious numbering issues, such as those that will have to be tackled in this increasingly competitive telecommunications industry. The outcome of the numbering plan decision should not be a function of which carriers can afford to send as many employees as possible to expensive locations throughout the United States -- where meetings of the ATIS are typically held. The notice and comment proceeding of the FCC is far less expensive to participate in and far more above-board than the operations of these standards committees. In any case, these groups have no legal power and can only adopt voluntary guidelines for participants to follow. Thus, even if these groups were effective in fairly resolving controversial issues, they have no effective enforcement tool.

The establishment of a non-government entity, as proposed in the NPRM at ¶16, would not resolve these issues and simply avoids the obvious solution of having the FCC do what it is responsible for doing. The FCC never explains why it should not be assuming the full role of the NANP. If the FCC performs these functions, it will not have to deal with any of the many problems it identifies as needing resolution. For example, it would not have to worry about who is in the group. NPRM at ¶25. Nor would it have to worry about how such a group would be funded. ¶¶30-36.

Thus, the FCC need only do what it is supposed to do -- namely be the NANP and perform its regulatory responsibility pursuant to its plenary jurisdiction.

III. Conclusion

For the reasons set forth herein, Allnet urges the Commission to require that all end users be provided the option to avoid dialing even longer CIC code by requiring that dial-1 be available for all toll calling for using either the end user's local exchange carrier or its interLATA carrier.

Respectfully submitted,
ALLNET COMMUNICATION SERVICES, INC

A handwritten signature in black ink, appearing to read "Roy L. Morris".

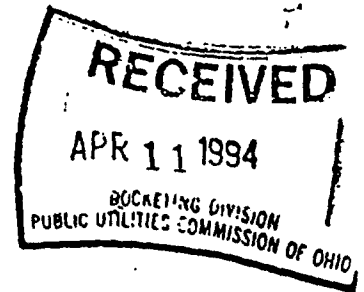
Roy L. Morris
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Washington, D.C. 20036
(202) 293-0593

Dated: June 7, 1994

Exhibit I

**Cincinnati Bell Stipulation Choosing the Modified 2-PIC
(Using Class of Service)
for Dial-1 IntraLATA Presubscription In Ohio**

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO



In the Matter of the Application of)
Cincinnati Bell Telephone Company) Case No. 93-432-TP-ALT
for Approval of an Alternative Form)
of Regulation and for a Threshold)
Increase in Rates)

In the Matter of the Complaint of)
the Consumers' Counsel, State of)
Ohio, on Behalf of the Residential)
Customers of Cincinnati Bell)
Telephone Company,)
Complainants,) Case No. 93-551-TP-CSS
v.)
Cincinnati Bell Telephone Company,)
Respondent.)

STIPULATION AND RECOMMENDATION

The parties hereto, being Cincinnati Bell Telephone Company ("CBT" or the "Company"), the Staff of the Public Utilities Commission of Ohio (the "Staff"),¹ the Office of the Consumers' Counsel (the "OCC") and such of the intervening parties in either or both of Case Nos. 93-432-TP-ALT (the "Alt Reg Proceeding") and 93-551-TP-CSS (the "Complaint Proceeding") as have evidenced their agreement by subscribing hereto

¹Pursuant to Rule 4901-1-10(C), Ohio Admin. Code, the Staff of the Commission is considered a party for the purpose of entering into a stipulation under Rule 4901-1-30, Ohio Admin. Code.

Commitments (Stipulation 28) and will be offsets to the revenues designated for CCLC reduction purposes provided by the Company's formula for retargeting rates.

If the terminating carrier common line charge is reduced to parity with interstate CCLCs, any remaining commitment which would otherwise be applied to CCLC reductions will be applied to reductions of Touch Tone Charges as set forth in Stipulation 28(b).

- 27) The Stipulating Parties agree that the following additional commitment relating to implementation of Dial 1 is in the public interest and should be included in CBT's Plan. The Company will provide its Ohio customers the option of choosing their interLATA toll carrier to carry their intraLATA toll calls on a 1+ basis ("IntraLATA 1+"). For purposes of this provision, "toll calls" means MTS calls terminating outside the "local calling area" as defined by O.A.C. 4901:1-7-01. The Company will deploy the technology necessary to implement IntraLATA 1+ and will implement IntraLATA 1+ upon the terms and conditions set forth herein.

a) **Implementation Schedule**

The Company will implement IntraLATA 1+ in at least one Ohio central office by December 31, 1994. All other Ohio central offices will have IntraLATA 1+ available by the end of 1995, except for one 2BESS office, which will be converted when memory is available. Implementation schedules

will be shared with all interLATA toll carriers operating within the Cincinnati LATA.

b) **IntraLATA 1+ Methodology**

The Company will deploy the IntraLATA 1+ methodology known as "modified 2 PIC" to implement IntraLATA 1+ capability. For purposes of this provision, the modified 2 PIC methodology means the programming of a software program-controlled switch to create an additional class of service for each existing class of service, thereby permitting an additional routing table for each existing class. The modified 2 PIC methodology permits customers to select their presubscribed interLATA toll carrier to handle all their toll calls on a 1+ basis or to allow the Company to carry their intraLATA calls. The Company will continue to handle all local, 0-, 411, 611, and 911 calls.

c) **IntraLATA 1+ Implementation Cost Recovery**

The Company will recover its IntraLATA 1+ implementation costs, in an amount of \$200,000, through a one-time nonrecurring intrastate access charge (the "Charge"). The costs to be recovered include reasonable billing system changes, employee labor costs associated with switch programming, initial PIC changes, and a reasonable allocation of overheads. The Charge will be assessed as follows:

1. On or about January 1, 1997, the Company will conduct a study to identify all carriers then presubscribed to provide IntraLATA 1+ service and the pro-rata portion of the total originating intraLATA MTS

minutes of use attributable to each such carrier authorized to provide interLATA service to customers of the Company during the prior month (the "IXC Percentage").

2. As soon as practicable thereafter, the Company will assess each carrier authorized to provide interLATA service to customers of the Company as of January 1, 1997, a charge equal to the product of the \$200,000 and such carrier's IXC Percentage.

d) **Customer Notification**

The Company will provide notice to affected customers via bill insert of the option to choose their interLATA carrier to handle all their toll calls at least 90 days prior to the date intraLATA 1+ becomes available to such customers. There will be no customer balloting. Toll carriers may provide such information to customers regarding the availability of IntraLATA 1+ as they deem appropriate; provided, however, that customer marketing by toll carriers will commence no sooner than 90 days prior to the date IntraLATA 1+ is to become available to affected customers and except that nothing herein shall authorize any otherwise unauthorized or unlawful use of the Company's name, marks, logo, trademarks, or tradenames by the toll carriers.

e) **PIC Changes**

The Company's procedures and charges applicable to customers' selection of an interLATA carrier (PIC changes) will be applicable to the selection of an intraLATA toll carrier. This includes an allowance for ninety (90) days before

the date IntraLATA 1+ becomes available, for customers to select their interLATA toll carrier to carry their intraLATA toll calls without the customer incurring a PIC change charge. Federal anti-slamming rules shall also apply.

f) **Residual Carrier**

The Company shall remain the carrier for intraLATA service to customers who, as of the implementation date of IntraLATA 1+, do not affirmatively select their presubscribed interLATA carrier for intraLATA calling.

g) **Obligations for Signatory Interexchange Carriers**

The signatory interexchange carriers agree that this Stipulation cannot be used as an admission or evidence that the Company provided or provides inadequate service.

Conditional Commitments

- 28) The Stipulating Parties agree that the specifics of the retargeting formula will be as follows:

CBT commits to a specific formula for retargeting rates or refunds of earnings if earnings exceed an 11.93% rate of return for its regulated Ohio intrastate operations at the end of any monitoring period. The monitoring periods for the alternative regulation plan will be the years 1994, 1995, and 1996. CBT may file a traditional rate case requesting rate increases for all services if its earnings are less than a

Exhibit II

**Western Reserve Stipulation Choosing the Modified 2-PIC
(Using Class of Service)
for Dial-1 IntraLATA Presubscription in Ohio**

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JAN 7 1994

DOCKETING DIVISION
PUBLIC UTILITIES COMMISSION OF OHIO

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

The Office of the Consumers' Counsel
State of Ohio, on Behalf of the
Residential Utility Customer of The
Western Reserve Telephone Company,

Complainants,

v.

The Western Reserve Telephone Company

Respondent.

Case No. 92-1525-TP-CSS

In the Matter of the Application
of The Western Reserve Telephone
Company for Approval of an
Alternative Form of Regulation.

Case No. 93-230-TP-ALT

STIPULATION

The Western Reserve Telephone Company (the "Company"), the Staff of the Commission ("Staff"), The Ohio Bell Telephone Company ("Ohio Bell"), Allnet Communications Services, Inc., LCI International Telecom Corporation and MCI Telecommunications Corporation (the "IXC Coalition"), AT&T Communications of Ohio, Inc. ("AT&T") The Ohio Department of Education ("ODE"), Bell Communications Research, Inc. ("Bellcore") and The Ohio Cable Television Association (collectively, the "Stipulating Parties") respectively stipulate and recommend as follows:

1. With respect to Case No. 92-1525-TP-CSS, that the Commission find:
 - (A) That the Complaint alleged, among other things, that since the Company's last rate case the Company's revenues have increased and its expenses decreased, resulting in alleged excess earnings of more than \$10,000,000 annually, and that the Commission should order reductions in rates to just and reasonable levels;

- (B) That, on a total-company basis, the Company's revenues during the test year exceeded amounts necessary to achieve a rate of return on rate base of 10.7% to the extent of \$18,708,000; that, \$10,258,000 of this amount was allocated to the Company's conversion to cost-based interstate settlements effective January 1, 1994, and; that by virtue of the foregoing, the Company's intrastate rates should be reduced as outlined in Section 1(C), to the extent of \$8,450,000 in the first year, plus additional amounts outlined in such Section for later years.
- (C) That, upon implementation of the following rate adjustments, as set forth in the Alternative Regulatory Plan (the "Plan"), attached hereto as Attachment 1, rates and charges of the Company will be in all respects just and reasonable over the Initial Term of the Plan as stipulated below, and that the Complaint giving rise to Case No. 92-1525-TP-CSS will be thereby satisfied:

<u>Rate Adjustment</u>	<u>Revenue Effect (millions)</u>		
	Year 1	Year 2	Year
1. Elimination of residential Tel-touch charges/non-recurring charge waiver	\$(2.0)		
2. Reduction of Intrastate Traffic Sensitive Local Switching access charges	(6.2)	(2.2)	(2.4)
3. Implementation of free one way calling to state chartered schools from Company customers	(.15)		
4. Reduction of basic local exchange rate for schools	<u>(.1)</u>		
Total	\$ (8.45)		

- (D) That to the extent it seeks results inconsistent with the foregoing, the Complaint is denied; to the extent it seeks results consistent with the foregoing, the Complaint is granted.

2. With respect to Case No. 93-230-TP-ALT:

- a. That the Company be authorized in all respects to place in effect the Alternative Regulatory Plan (the "Plan") which is attached hereto as Attachment 1;
- b. That the Stipulation is the product of serious bargaining among the Stipulating Parties who are capable knowledgeable parties. The Stipulation as a package benefits the Company ratepayers and is in the public interest.
- c. That, pursuant to Section I(D) of the Rules, to the extent necessary to effect the foregoing, any and all of the rules adopted by the Commission in Case No. 92-1149-TP-COI which are in conflict herewith be waived; and
- d. That the Ohio Bell "B" schedules shall be the intraLATA toll rate schedules that shall be applicable to calls utilizing a Company switch that has not been enabled with IntraLATA 1+ (as hereafter defined), and that are calls among the Company's customers, or between the Company's customers and those of Ohio Bell, or between the Company's customers and those of other Schedule B carriers.
- e. The Company will provide its customers the option of choosing their interLATA toll carrier to carry their intraLATA toll calls on a 1+ basis ("IntraLATA 1+"). For purposes of this provision, "toll calls" means MTS calls terminating outside the "local calling area" as defined by O.A.C. §4901:1-7-01. The Company will deploy the technology necessary to implement IntraLATA 1+ and will implement IntraLATA 1+ upon the terms and conditions set forth herein. The Company will remain an access provider, a secondary carrier, and will not be required to become a toll carrier.

(1) Implementation Schedule

The Company's infrastructure commitment to deploy full digital switching capability for all its access lines by year-end 1994 will permit the company to provide IntraLATA 1+ to all its customers by that date. The Company will implement IntraLATA 1+ in at least five (5) exchanges served by software

program-controlled switches on or before September 1, 1994 and will implement IntraLATA 1+ to all its customers by December 31, 1994. Not later than one hundred fifty (150) days prior to the first implementation of IntraLATA 1+, the Company will file an ATA application with the Commission for authority to withdraw its concurrence with the Ohio Bell Message Toll Service ("MTS") Schedule B Tariff on a switch-by-switch basis as IntraLATA 1+ is implemented, and for concurrence in the Ohio Bell MTS Schedule B Tariff to continue until IntraLATA 1+ capability is available to customers served by the switch in question. At the time the ATA application is filed, the Company will provide sufficient notice to Ohio Bell and to any other participants in the Originating Responsibility Plan/Secondary Carrier Option ("ORP-SCO") billing arrangements so the necessary adjustments can be made to the IntraLATA Terminating Access Compensation ("ITAC") billing system to accommodate the withdrawal of Ohio Bell as the primary carrier for MTS for the Company, and upon implementation of IntraLATA 1+ in each central office, Ohio Bell shall no longer be deemed the primary carrier for MTS for such office. The ORP-SCO Agreement shall be appropriately amended to carry out the intent of this Stipulation; however, nothing herein shall be construed to rescind any other agreements between the Company and Ohio Bell, including but not limited to, agreements for billing and collection services and operator services.

(2) IntraLATA 1+ Methodology

The Company will deploy the IntraLATA 1+ methodology known as "modified 2 PIC" to implement IntraLATA 1+ capability. For purposes of this provision, the "modified 2 PIC" methodology means the programming of a software program-controlled switch to create an additional class of service for each existing class of service, thereby permitting an additional routing table for each existing class. The "modified 2 PIC" methodology permits customers to select their presubscribed interLATA toll carrier to handle all their toll calls on a 1+ basis or

to allow Ohio Bell, the Company's current primary carrier, to carry their intraLATA calls, as is now the case. The Company will continue to handle all local, 0-, 411, 611, and 911 calls.

(3) IntraLATA 1+ Implementation Cost Recovery

The Company will recover its intraLATA 1+ implementation costs, in an amount not to exceed \$175,000, from carriers presubscribed for intraLATA MTS toll service through a tariffed, one-time non-recurring intrastate access charge (the "Charge"). The IntraLATA 1+ implementation costs allowable for recovery will include reasonable billing system changes, employee labor costs associated with switch programming, initial PIC changes and a reasonable allocation of associated overheads. The Charge will be described in a tariff applicable to all MTS toll carriers. The Charge will be determined and assessed as follows:

- a. On or about July 1, 1995, the Company will conduct a study to identify all carriers then presubscribed to provide IntraLATA 1+ service or providing intraLATA service as a residual carrier, as well as the pro-rata portion of the Company's total originating intraLATA MTS minutes of use attributable to each such carrier authorized to provide interLATA service to customers of the Company during the preceding month (the "IXC Percentage"), and the pro-rata portion of the Company's total intraLATA MTS minutes of use attributable to each such carrier authorized to provide intraLATA service to customers of the Company for the preceding month (the "OBT Percentage").
- b. As soon as practicable thereafter, and if neither of the conditions described in Subsection c of this Section shall have occurred, the Company will assess each carrier authorized to provide interLATA service to customers of the Company on July 1, 1995, a Charge equal to the product of the Company's allowable implementation costs and such carrier's IXC Percentage. If either condition described in Subsection c shall have then occurred, the Company shall

assess each carrier authorized to provide intraLATA service to customers of the Company on July 1, 1995, a charge equal to the product of the Company's allowable implementation costs and such carrier's OBT Percentage.

- c. If Ohio Bell is not assessed a Charge pursuant to the terms of Subsection b, and if at any time during the Initial Term of the Plan and after June 1, 1995, any competent agency or court shall issue an order, or legislation shall be enacted, that removes the restriction of the Modified Final Judgment relating to interLATA service by Ohio Bell for the Company's customers, or if Ohio Bell shall give the notice identified in Section 2.e.7 of this Stipulation, then the Company shall recalculate the Charges to all carriers, including Ohio Bell, in amounts equal to the product of the Company's allowable implementation costs and each carrier's OBT Percentage, and shall assess or credit each carrier, including Ohio Bell, accordingly.

(4) Customer Notification

The Company will provide notice to affected customers of the option to choose their interLATA carrier to handle all their toll calls at least ninety (90) days prior to the date IntraLATA 1+ becomes available to such customers. There will be no customer balloting. Toll carriers may provide such information to customers regarding the availability of IntraLATA 1+ as they deem appropriate, provided, however, that customer marketing by toll carriers will commence no sooner than ninety (90) days prior to the date IntraLATA 1+ is to become available to the affected customers and except that nothing herein shall authorize any otherwise unauthorized or unlawful use of Company's name, marks, logo, trademarks, or tradenames by the toll carriers.

(5) PIC Changes

The Company's procedures and charges applicable to customers' selection of an interLATA carrier (PIC changes) will be

applicable to the selection of an intraLATA toll carrier, including allowance, for ninety (90) days before the date IntraLATA 1+ becomes available, for customers to select their interLATA toll carrier to carry their intraLATA toll calls without the Customer incurring a PIC change charge.

(6) Residual Carrier

Ohio Bell shall remain the carrier for intraLATA service to current customers at current locations who, as of the implementation date of IntraLATA 1+, do not affirmatively select their presubscribed interLATA carrier for intraLATA calling.

(7) Ohio Bell Tariffs¹

Coincident with implementation of IntraLATA 1+, Ohio Bell has elected to grandfather its MTS service offered in the Company's service territory, to be limited to current customers at their current locations as of the implementation date of IntraLATA 1+ who do not affirmatively select their presubscribed interLATA carrier for intraLATA calling. A tariff effectuating this change will be filed by Ohio Bell for approval by the Commission in conjunction with the Order in these cases. The Staff agrees to support such a tariff filing. Consistent with Ohio Bell's election and absent further notice to the Company, Ohio Bell has elected to not be listed by the Company as an option for intraLATA toll service for any access lines of the Company not activated on the implementation date of IntraLATA 1+ for such access lines, but Ohio Bell, at the customer's request, will provide such intraLATA toll service to current customers who add additional lines at their current locations.

(8) Obligations of Signatory Interexchange Carriers

The signatory interexchange carriers agree that they will not file a complaint against a primary toll carrier seeking the

¹ The IXC Coalition, AT&T and OCTVA express no opinion concerning this paragraph, and do not consider this paragraph to be part of the stipulation to which they are signatory parties.

implementation of IntraLATA 1+ until on or after December 31, 1995. This agreement does not restrict the signatory interexchange carriers from any of the following: (1) seeking the implementation of IntraLATA 1+ by raising the issue in other proceedings, including, but not limited to, rate cases or alternative regulatory proceedings instituted by an LEC, generic investigatory proceedings instituted by the Commission, or EAS proceedings; (2) filing complaints regarding the failure to provide IntraLATA 1+ against any secondary toll carriers; (3) informally requesting that the Commission initiate a generic investigation into the implementation of IntraLATA 1+. Nothing herein shall be deemed a waiver by any party of its right to object to raising IntraLATA 1+ in such proceedings.

In the event of any legislative, judicial, or regulatory changes which could permit any primary toll carrier currently subject to restrictions against the provision of interLATA toll service to provide interLATA toll service, the foregoing provision preventing the signatory IXCs from filing complaints against such carrier shall be null and void.

(9) Pending Appeals

The Stipulating Parties agree that neither this Stipulation nor any order in these cases shall be introduced or used in any way in the pending appeal of the Commission decision in Allnet v. Ohio Bell Telephone Company, Case No. 86-771-TP-CSS (Allnet v. Pub. Util. Comm., S. Ct. Case No. 93-1612) ("Allnet Appeal"). However, this Stipulation, and the Parties' agreement to forbear from filing complaints against primary toll carriers as set forth above, shall in no way affect their rights with regard to a remand of the Allnet Appeal and any action taken by the Commission in order to carry out any order of the Ohio Supreme Court.

(10) Use of IntraLATA 1+ Settlement

Subject to the restrictions contained above, the signatory parties' agreement to the provisions of this settlement relating to the implementation of IntraLATA 1+ is not binding upon them in any other proceedings. Except as provided above, no limitation on the use of this Stipulation contained in Section 6 hereof shall be construed to preclude any party from presenting evidence (other than this Stipulation) concerning the methodology and existence of IntraLATA 1+ within the Company's service territory. The implementation of IntraLATA 1+ by the Company shall not be cited or otherwise advanced by any party as a reason to delay the implementation of IntraLATA 1+ within the service territories of other Ohio LECs.

(11) Schedule

All dates certain provided in Section 2(e) were agreed to on the assumption that an order approving this Stipulation would be issued on or before March 1, 1994. If an order is not issued on or before March 1, 1994, all dates certain stated in Section 2(e) shall be extended one day for each day after March 1, 1994, that the order is delayed.

- f. No Stipulating Party shall initiate or seek to initiate any earnings review or earnings adjustment proceedings during the Initial Term (as defined in the Plan).
- 3. The Company agrees to implement, or to have implemented, the recommendations of the Staff Report relating to quality of service that were adopted in the prefiled testimony of George Crump, but that are not expressly outlined in the Plan.
- 4. That if the Commission should adopt this Stipulation, it may treat the Stipulating Parties' objections to the Staff Report as satisfied and withdrawn and need not rule upon them individually or collectively.
- 5. That the Stipulating Parties need not call witnesses to sponsor the written testimony previously filed herein, except as may be necessary to make witnesses available

for cross examination by parties to these proceedings who are not Stipulating Parties, and that no Stipulating Party has objection to such testimony being offered and admitted into evidence. The Stipulating Parties may file supplemental testimony supporting this Stipulation and shall support this Stipulation.

6. That this Stipulation is submitted for purposes of full and final settlement of these cases and all issues related thereto, including but not limited to, the breaking of the intrastate Traffic Sensitive Access mirror and equalization of Carrier Common Line access charges, and is not to be deemed binding upon the Stipulating Parties in any other proceeding nor to be offered or relied upon in any other proceeding involving the Company or any other utility. All offers of settlement and discussion related thereto are and shall be privileged and shall not be used in any manner, nor be admissible for any other purpose in connection with this proceeding or any other proceeding. All the matters set forth in this Stipulation, including but not limited to, the breaking of the intrastate Traffic Sensitive Access mirror, the equalization of Carrier Common Line access charges and the technical feasibility of IntraLATA 1+, are presented only in connection with this Stipulation, and are presented without prejudice to any position any of the signatories may have advanced in other proceedings and any positions that they may take in any future proceedings. In addition, nothing herein shall be deemed a waiver of the right of any party other than the Company to object to the implementation of ELCS as contemplated by Section 10(F) of the Plan. Without limiting the generality of the foregoing, this Stipulation shall not be used by any party to demonstrate or assert that the form or content of the Plan is in any respect applicable to any other case, involving the Company or otherwise, filed or arising under Revised Code Chapter 4927.
7. The Stipulating Parties agree that if the Commission does not adopt this Stipulation without modification as the basis for its decision in these proceedings, to be evidenced by incorporation of this Stipulation within the Commission's Order in this proceeding by reference, restatement, and/or attachment, that this Stipulation may be withdrawn by notice of any Stipulating Party to all other Stipulating Parties, all withdrawn objections shall thereupon be reinstated, and this Stipulation shall thereupon not constitute any part of the record in this proceeding, nor shall it be used for any purpose whatsoever by any party to this or any other